

SCHWEGMAN ■ LUNDBERG ■ WOESSNER

United States Patent Application

SUBSTITUTE COMBINED REISSUE DECLARATION AND POWER OF ATTORNEY

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled: **APPARATUS FOR TRANSMITTING AND RECEIVING EXECUTABLE APPLICATIONS AS FOR A MULTIMEDIA SYSTEM, AND METHOD AND SYSTEM TO ORDER AN ITEM USING A DISTRIBUTED COMPUTING SYSTEM,**

the specification of which was filed on July 10, 2001 as application serial no. 09/903,457.

I believe original patent 5,819,034 ("the '034 patent"), to be wholly or partly inoperative by reason of my claiming less than I had the right to claim in the patent. The claims of the '034 patent relate to a distributed computer system. For example, claim 1 recites a distributed computer system reciting, inter alia, a "further processor including means to . . . form an interactive video program in which execution of said distributed computing application alters said video program." However, the '034 patent also discloses a method and system that, stated generally, uses a server to transmit to a client both a television program and a computing application comprising executable code, the executable code to be executed at the client to cause display of interactive information associated with the television program while the television program is being displayed at the client. This invention is distinct from the invention claimed in the original patent; and is not in any way claimed in the issued claims of the '034 patent. The above quoted language of issued claim 1 is not necessary for patentability of claims drawn to the identified disclosed but unclaimed invention, and thus the presence of this limitation renders the '034 patent partly inoperative. This error is addressed in this reissue by eliminating limitations found in the issued claims, including the limitation from issued claim 1 of the '034 patent quoted above, and by including claims directed to methods of, and systems for, using a server to transmit to a client both a television program and a computing application comprising executable code. In particular, the error is addressed by the presentation of claims 68-143 and 246-263, drawn to this previously unclaimed invention.

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I hereby claim foreign priority benefits under 35 U.S.C. §119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

No such claim for priority is being made at this time.

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| Application Number | Filing Date | Status |
|--------------------|--------------------|---------|
| 09/672,523 | September 27, 2000 | Pending |

I hereby appoint the attorneys associated with the customer number listed below to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

Customer Number: 44367

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/organization/who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Schwegman, Lundberg & Woessner, P.A. to the contrary.

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Full Name of joint inventor number 1: Kuriacose Joseph
Citizenship: United States of America
Post Office Address: 16124 Orchard Grove Road
Gaithersburg, MD 20878

Residence: Gaithersburg, MD

Signature: _____

Kuriacose Joseph

Date: _____

6/14/10

Full Name of joint inventor number 2: Vincent Dureau
Citizenship: France
Post Office Address: 3519 S. Court
Palo Alto, CA 94306

Residence: Palo Alto, CA

Signature: _____

Vincent Dureau

Date: _____

Full Name of joint inventor number 3: Alain Delpuch
Citizenship: France
Post Office Address: 36 rue Le Brun
Paris, 75013
France

Residence: Paris,

Signature: _____

Alain Delpuch

Date: _____

☒ Additional inventors are being named on separately numbered sheets, attached hereto.

Full Name of joint inventor number 4: **Ansley Wayne Jessup**

Citizenship: **United States of America**

Post Office Address: 22 Elmwood Lane
Willingboro, NJ 08046

Residence: **Willingboro, NJ**

Signature: _____ Date: _____
Ansley Wayne Jessup

§ 1.56 Duty to disclose information material to patentability.

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(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

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- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

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Vincent Dureau

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Residence: Paris,

Signature: _____ Date: _____
Alain Delpuch

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Attorney Docket No.: 2050.001US5
Client Ref No. OPTV-001/RD2/US

Page 4 of 5

Serial No. 09903,648
Filing Date: July 10, 2001

Full Name of joint inventor number 4: **Ansley Wayne Jessup**

Citizenship: **United States of America**

Residence: **Willingboro, NJ**

Post Office Address: **22 Elmwood Lane
Willingboro, NJ 08046**

Signature: _____ Date: _____
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Residence: **Gaithersburg, MD**

Signature: _____ Date: _____
Kuriacose Joseph

Full Name of joint inventor number 2: **Vincent Dureau**
Citizenship: **France**
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Attorney Docket No.: 2050.001/US5
Client Ref No. OPTV-001/RD2/1/S
Serial No. 09/903,448
Filing Date: July 10, 2001

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Post Office Address: 22 Elmwood Lane
Willingboro, NJ 08046

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Please direct all correspondence in this case to Schwegman, Lundberg, & Woessner, P.A. at the address indicated below:

Customer Number: 44367

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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Signature: _____ Date: _____
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Signature: _____ Date: _____
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Signature: _____ Date: June 21st, 2001
Alain Delpuch

☒ Additional inventors are being named on separately numbered sheets, attached hereto.

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Willingboro, NJ 08046

Residence: **Willingboro, NJ**

Signature: _____
Ansley Wayne Jessup

Date: _____

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.